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### State v. Matthews Appellant's Brief Dckt. 45295

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IN THE SUPREME COURT OF THE STATE OF IDAHO

|                                       |   |                                |
|---------------------------------------|---|--------------------------------|
| STATE OF IDAHO,                       | ) |                                |
|                                       | ) | NO. 45295                      |
| Plaintiff-Respondent-Cross Appellant, | ) |                                |
|                                       | ) | ADA COUNTY NO. CR-FE-2016-5895 |
| v.                                    | ) |                                |
|                                       | ) |                                |
| RYAN KELLY MATTHEWS,                  | ) | APPELLANT'S BRIEF              |
|                                       | ) |                                |
| Defendant-Appellant-Cross Respondent. | ) |                                |
| <hr/>                                 | ) |                                |

STATEMENT OF THE CASE

Nature of the Case

Ryan Kelly Matthews was sentenced to a unified term of seven years, with three years fixed, after he pled guilty to possession of a controlled substance. He contends the district court abused its discretion when it imposed this sentence upon him considering the mitigating factors that exist in this case.

Statement of Facts & Course of Proceedings

Mr. Matthews was booked into Ada County Jail on May 6, 2016, after being arrested on an agent's warrant. (R., p.170; Tr., p.34, Ls.6-9, p.38, Ls.11-14.) During the booking process,

two plastic baggies containing methamphetamine were found in Mr. Matthews' pocket. (Presentence Investigation Report ("PSI"), p.4.) Mr. Matthews was charged by Information with possession of a controlled substance. (R., pp.123-24.) He filed a motion to suppress, which the district court denied. (R., pp.141-51, 167-68.) Following the denial of his motion to suppress, Mr. Matthews entered into an agreement with the State pursuant to which he agreed to plead guilty, and the State agreed not to pursue a persistent violator enhancement. (R., pp.180-82; Tr., p.51, Ls.18-23.) The district court accepted Mr. Matthews' guilty plea. (Tr., p.61, Ls.12-14.)

At sentencing, the prosecutor recommended a unified sentence of seven years, with three years fixed. (Tr., p.65, Ls.2-7.) Counsel for Mr. Matthews recommended a sentence of five years, with one year fixed, with the district court retaining jurisdiction. (Tr., p.73, Ls.1-7.) The district court sentenced Mr. Matthews to seven years, with three years fixed, and did not retain jurisdiction. (Tr., p.77, Ls.18-23; R., p.184.) The district court ordered Mr. Matthews to pay \$285.50 in court costs, and \$200.00 restitution pursuant to Idaho Code § 37-2732(k) for the laboratory testing of the methamphetamine. (R., pp.186-88, 192; Tr., p.77, Ls.23-24.) The district court did not order Mr. Matthews to pay restitution for the costs of prosecution. (Tr., p.77, Ls.15-17; R., pp.186-88.)

The judgement of conviction was entered on July 3, 2017, and Mr. Matthews filed a timely notice of appeal on July 28, 2017. (R., pp.191-202.) The State filed a notice of cross-appeal on August 15, 2017. (R., pp.226-33.) On August 28, 2017, Mr. Matthews filed a motion

pursuant to Idaho Criminal Rule 35 (“Rule 35”) for a reduction of sentence. (R., pp.234-37.)

The district court denied Mr. Matthews’ Rule 35 motion.<sup>1</sup> (R., pp.256-28.)

### ISSUE

Did the district court abuse its discretion when it imposed upon Mr. Matthews a unified sentence of seven years, with three years fixed, considering the mitigating factors that exist in this case?

### ARGUMENT

#### Considering The Mitigating Factors That Exist In This Case, The District Court Abused Its Discretion When It Imposed Upon Mr. Matthews A Unified Sentence Of Seven Years, With Three Years Fixed

Mr. Matthews asserts that, given any view of the facts, his unified sentence of seven years, with three years fixed, is excessive. Where, as here, the sentence imposed by the district court is within statutory limits, “the appellant bears the burden of demonstrating that it is a clear abuse of discretion.” *State v. Miller*, 151 Idaho 828, 834 (2011) (quoting *State v. Windom*, 150 Idaho 873, 875 (2011)). “When a trial court exercises its discretion in sentencing, ‘the most fundamental requirement is reasonableness.’” *Id.* (quoting *State v. Hooper*, 119 Idaho 606, 608 (1991)). “A sentence is reasonable if it appears necessary to accomplish the primary objective of protecting society and to achieve any or all of the related goals of deterrence, rehabilitation or retribution.” *Id.* (citation omitted). “When reviewing the reasonableness of a sentence this Court will make an independent examination of the record, ‘having regard to the nature of the offense, the character of the offender and the protection of the public interest.’” *Id.* (quoting *State v. Shideler*, 103 Idaho 593, 594 (1982)).

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<sup>1</sup> Mr. Matthews does not challenge the district court’s denial of his Rule 35 motion on appeal in light of *State v. Huffman*, 144 Idaho 201, 203 (2007).

The sentence the district court imposed upon Mr. Matthews was not reasonable considering the nature of his offense and his character, and was not necessary to protect the public interest. Mr. Matthews was convicted of possession of controlled substance, after methamphetamine was found in his pocket when he was being booked into county jail. (PSI, p.4.) Mr. Matthews admitted to knowingly and willingly possessing the methamphetamine during the change of plea hearing. (Tr., p.60, Ls.3-6.) Mr. Matthews is addicted to drugs, and needs help for his addiction, not a term of incarceration.

The sentence imposed upon Mr. Matthews' was also not reasonable considering his character. Mr. Matthews' mother sent a letter to the district court requesting leniency and stating her son "is worth saving." (PSI, p.22.) Mr. Matthews' sister asked the district court to provide her brother with structured, intensive substance abuse treatment so he can "have the opportunity to be successful." (PSI, p.23.) She asked the district court to "[p]lease take in consideration that Ryan has an addiction that is waiting to be addressed." (PSI, p.23.) Mr. Matthews' grandmother told the district court that "Ryan is a good person with an addiction that is bigger than he is." (PSI, p.24.) She asked for her grandson to "receive the help he needs, to become the good man that I know he can be." (PSI, p.24.) Mr. Matthews' niece, wife, and mother-in-law also submitted character references to the district court, and Mr. Matthews' mother-in-law said Mr. Matthews had worked for her in the past, and had a job waiting for him on release. (PSI, pp.25-28.) By all accounts, Mr. Matthews is a good person struggling with a serious addiction, not a hardened criminal. At the very least, the district court should have retained jurisdiction and allowed Mr. Matthews the opportunity to participate in a rider program.

The sentence imposed upon Mr. Matthews was not necessary to protect the public interest. Mr. Mathews was found to be in possession of a small quantity of illegal drugs when he

was being booked into jail for absconding parole. (PSI, p.3.) Mr. Matthews was not violent and posed no risk to the public in this case. In fact, he was arrested when he was sound asleep and did not resist arrest. (Tr., p.39, L.20 – p.40, L.7.) In light of the mitigating factors that exist in this case, and notwithstanding the aggravating factors, the district court abused its discretion when it sentenced Mr. Matthews to a unified term of seven years, with three years fixed, and should have imposed a shorter term of incarceration and retained jurisdiction.

### CONCLUSION

Mr. Matthews respectfully requests that this Court reduce his sentence as it deems appropriate. Alternatively, he requests that this Court remand this case to the district court for a new sentencing hearing.

DATED this 9<sup>th</sup> day of March, 2018.

\_\_\_\_\_/s/\_\_\_\_\_  
ANDREA W. REYNOLDS  
Deputy State Appellate Public Defender

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 9<sup>th</sup> day of March, 2018, I served a true and correct copy of the foregoing APPELLANT'S BRIEF, by causing to be placed a copy thereof in the U.S. Mail, addressed to:

RYAN KELLY MATTHEWS  
INMATE #61111  
ISCC  
PO BOX 70010  
BOISE ID 83707

MELISSA MOODY  
DISTRICT COURT JUDGE  
E-MAILED BRIEF

KENNETH K JORGENSEN  
DEPUTY ATTORNEY GENERAL  
CRIMINAL DIVISION  
E-MAILED BRIEF

\_\_\_\_\_/s/\_\_\_\_\_  
EVAN A. SMITH  
Administrative Assistant

AWR/eas